

Internal Revenue Service

memorandum

CC:TL-N-7118-90

Br4:JRDomike

date: JUL 5 1990

to: District Counsel, Thousand Oaks CC:TO
Attn: Darren M. Larsen, Attorney

from: Assistant Chief Counsel (Tax Litigation) CC:TL

subject: [REDACTED]

This responds to your memorandum dated May 17, 1990, requesting tax litigation advice on the liability for self-employment tax of the petitioner, a [REDACTED] minister.

ISSUE

The specific issue is whether the petitioner must establish the tax-exempt status of the [REDACTED] in order to qualify for the exemption from the tax provided by I.R.C. § 1402(e).

DISCUSSION

The attached coordination memorandum dated June 2, 1990 concludes that, under the published position of the Service, the petitioner must establish that the [REDACTED] (the church from which he received compensation as a minister) is described in section 501(c)(3) and 170(b)(1)(A)(i) of the Code.

We have been advised by the Exempt Organizations Technical Division in the Office of the Assistant Commissioner (EPEO) that Form 4361 (ministers application for exemption) is being modified to permit the applicant to comply with the church certification requirement by submitting a letter or statement from the church that it is described in the cited sections of the Code.


09338

In light of this change in administrative procedure, we recommend that the issue in this case be settled without trial upon the petitioner providing such a letter from the [REDACTED] which relates back to the time of the original application.

The Exempt Organizations Technical Division concurs in our recommendation. If you have any questions, please call Joan Domike, FTS 566-3345.

MARLENE GROSS
Assistant Chief Counsel
(Tax Litigation)

By:


HENRY G. SALAMY
Chief, Branch No. 4
Tax Litigation Division

Attachment:

Memorandum from Senior Technician Reviewer,
Branch 2 to Chief, Branch 4 dated June 25, 1990